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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SAMUEL MOREAU,
DONALD AHRENS, GEORGIA GIBBS,
JOHN CARNEY, and DAVID DE ANDRADE

Appeal 2008-005798
Application 10/664,275
Technology Center 2400

Decided: September 18, 2009

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO
and MARC S. HOFF, *Administrative Patent Judges.*
HAIRSTON, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1 to 23. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain the obviousness rejections of claims 1 to 23.

Appellants have invented a service provider-defined blending of linear television programming (i.e., traditionally scheduled broadcast programming) and non-linear television programming (i.e., programs presented on demand) choices presented together within a single screen of a user interface (Figs. 1, 12, 13; Spec. 2 to 4 and 8 to 10; Abstract).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A user interface, comprising a service provider-defined blending of television program choices from which a viewer may select, the blending representing options for linear and non-linear programming presented together within a single hierarchy of a designated category.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Aristides	US 5,657,072	Aug. 12, 1997
Alexander	US 6,177,931 B1	Jan. 23, 2001
Sampsell	US 6,219,839 B1	Apr. 17, 2001
Knudson	US 2005/0149972 A1 (effective filing date Aug. 17, 1999)	Jul. 7, 2005

The Examiner rejected claims 1 to 10 and 12 to 15 under 35 U.S.C. § 103(a) based upon the teachings of Knudson and Aristides.

The Examiner rejected claim 11 under 35 U.S.C. § 103(a) based upon the teachings of Knudson, Aristides, and Sampsell.

The Examiner rejected claims 16 to 23 under 35 U.S.C. § 103(a) based upon the teachings of Knudson, Aristides, and Alexander.

According to the Examiner (Final Rej. 2, 3), Knudson fails to describe a service provider-defined blending as set forth in claim 1. The Examiner

states (Final Rej. 3) that “Aristides discloses a service provider defined blended display (figure 2) of linear and non linear programming (column 5, lines 40-57, column 6, lines 1-33),” and that it would have been obvious to one of ordinary skill in the art to modify Knudson to include the service provider-defined blending of programming as taught by Aristides.

Appellants argue (Br. 3, 4) that a user interface providing “a service provider-defined blending of linear and non-linear television program choices into categories or other groupings of content from which a viewer may select” is not taught by either Knudson or Aristides.

Appellants argue (Br. 6) that the combined teachings of Knudson, Aristides, and Alexander do not describe or display a service provider-defined blending of non-linear programming information, linear programming information, and managed content relevant to the linear and non-linear programming information.

ISSUES

Have Appellants shown that the Examiner erred by finding that the applied references teach a service provider-defined blending of linear and non-linear programming on a single display?

Have Appellants shown that the Examiner erred by finding that the applied references teach a display of service provider-defined blending of non-linear programming information, linear programming information, and managed content relevant to the linear and non-linear programming information?

FINDINGS OF FACT (FF)

1. Knudson describes an interactive display screen 130 that has a defined blending of linear programming (e.g., channel 151) and non-linear programming (e.g., video-on-demand) that is presented for user selection (Fig. 4; ¶ 0048).

2. In Knudson, the interactive display screen 130 is provided by the service provider 32, 36 (Fig. 4; ¶¶ 0035, 0043).

3. After the user has made a selection of favorite channels from the interactive display screen 130, Knudson provides a display of the selection results on a separate display screen (Fig. 5; ¶ 0049).

4. Aristides describes a service provider listing of programming in an electronic programming guide display (Fig. 2).

5. Alexander describes managed content/icons in the borders of the same screen as the programming choices (Fig. 1; col. 18, ll. 1 to 54).

PRINCIPLES OF LAW

The Board may sustain a multi-reference rejection under 35 U.S.C. § 103(a) by relying on one of the references alone without having to designate the reliance on less than the total amount of evidence as a new ground of rejection. *In re Boyer*, 363 F.2d 455, 458 n.2 (CCPA 1966); *In re Bush*, 296 F.2d 491, 496 (CCPA 1961).

ANALYSIS

The reference to Knudson describes an interactive display screen 130 that has a defined blending of linear programming (e.g., channel 151) and

non-linear programming (e.g., video-on-demand) that is presented for user selection (FF 1). As indicated *supra*, the service provider 32, 36 sends the interactive display screen 130 with the defined blending of programming choices to the user (FF 2). After the user makes a selection of favorite channels from the interactive display screen 130, Knudson provides for a separate display screen of the selections made by the user (FF 3).

Thus, the obviousness rejection of representative independent claim 1 based upon the teachings of Knudson and Aristides is sustained in view of the teachings of Knudson¹ alone. *Boyer*, 363 F.2d at 458 n.2 (CCPA 1966); *Bush*, 296 F.2d at 496 (CCPA 1961).

The obviousness rejection of claims 2 to 10 and 12 to 15 is sustained because Appellants have not presented any patentability arguments for these claims apart from the argument presented for claim 1.

The obviousness rejection of claim 11 is sustained because Appellants have not presented any patentability arguments for this claim apart from the argument presented for claim 1.

Turning lastly to claims 16 to 23, we agree with the Examiner's rationale (Ans. 16) that it would have been obvious to the skilled artisan to incorporate the managed content/icons shown in the borders of the Alexander screen display (FF 5) into the screen display of Knudson to

¹ Although the Examiner made a finding (Final Rej. 3) that Knudson does not describe service provider-defined blending of linear programming and non-linear programming on the same display screen, we find that Knudson does in fact teach the claimed service provider-defined blending as set forth in the claims on appeal (FF 1, 2). Thus, the service provider teachings of Aristides (FF 4) are merely cumulative to teachings already present in Knudson.

provide the user with the ability to go the Internet to learn more about the linear and non-linear programming choices presented in the interactive display screen 130. In summary, the obviousness rejection of claims 16 to 23 is sustained.

CONCLUSION OF LAW

Appellants have not demonstrated that the Examiner erred by finding that the applied references teach a service provider-defined blending of linear and non-linear programming on a single display.

Appellants have not demonstrated that the Examiner erred by finding that the applied references teach a display of service provider-defined blending of non-linear programming information, linear programming information, and managed content relevant to the linear and non-linear programming.

ORDER

The decision of the Examiner rejecting claims 1 to 23 under 35 U.S.C. § 103(a) is affirmed.

Appeal 2008-005798
Application 10/664,275

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

KIS

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